

Remarks

The above Amendments and these Remarks are in reply to the Office Action ("Office Action") in patent application Serial No. 10/023,525. Claims 1, 3-10, 12-20, 22-25, 27, 29, 33-37, 39-42, 48, 50 and 54 have been presently amended. Claim 38 has been presently cancelled.

Claims 55-57 are allowed.

Claims 1-2, 7, 9, 12-27, 29-37, 39-41, 43 and 46-54 are rejected under 35 U.S.C. §103(a) as being unpatentable over *Walsh et al.* (U.S. Publication No. US-2003-0050058A1) in view *Liebenow* (U.S. Publication No. US-2002-0128051A1).

Claims 3-4 and 45 are rejected under 35 U.S.C. §103(a) as being unpatentable over *Walsh et al.* in view of *Barnett* (U.S. Patent No. 6,343,276).

Claims 5-6, 8, 10, 38 and 42 are rejected under 35 U.S.C. §103(a) as being unpatentable over *Walsh et al.* in view of *Stanforth* (U.S. Publication No. US-2002-0058502A1).

I. Rejection of Claims 1-2, 7, 9, 12-27, 29-37, 39-41, 43 and 46-54 Under 35 U.S.C. §103(a)

Claims 1-2, 7, 9, 12-27, 29-37, 39-41, 43 and 46-54 are rejected under 35 U.S.C. §103(a) as being unpatentable over *Walsh et al.* in view *Liebenow*.

Walsh et al. teaches, as shown in Fig. 1, Bluetooth enabled transceivers 103 and Bluetooth enabled devices 111 at a location 101, such as a pub or store. Paragraph 0042, page 3. "The Bluetooth transceivers are connected to a DCDS server 105. The DCDS server 105 receives the user requests [for music] from the Bluetooth transceivers, determines which audio recording to play by maintaining a song playlist and outputs audio recordings through amplifier 107 to speakers 109." Paragraph 0043, page 3.

Liebenow teaches “[a] system and method for notifying a remote device of a low battery capacity condition in a wireless communications system...A detector [detector 316, as seen in Fig. 3] monitors the capacity of the battery [battery 314] in a wireless device receiving operational power from the battery for a low capacity condition.” Abstract.

A. Claims 1-2

In rejecting claim 1, the Examiner admitted, “Walsh fails to disclose telecommunication usage” and that *Liebenow* teaches “telecommunication usage of the first device. (0019, pg. 3)” Office Action, page 3. The Examiner went on to combine the teachings of *Walsh et al.* and *Liebenow* by stating:

[I]t would have been obvious to one of ordinary skill in the art at the time of the invention to include telecommunication usage in order to notify a remote device of a low battery condition in a wireless communication system. Office Action, page 3.

The Applicant’s attorney respectfully disagrees.

First, paragraph 0019, page 3 of *Liebenow* does not teach or suggest, “usage information regarding WAN telecommunication usage of the first device” as required by claim 1. Paragraph 0019, page 3 of *Liebenow* does not mention or suggest, “WAN telecommunication usage of the first device,” but merely describes detecting a low battery and activating “a message 322 [low capacity message] and transmit[ing] the message to remote device 216...”. This is not “WAN telecommunication usage.”

Second, *Liebenow* teaches away from the combining reasoning stated by the Examiner. *Liebenow* teaches a “detector 314” obtaining information from “battery 316” as seen in Fig. 3. *Liebenow* teaches that detector 314 does not receive “WAN telecommunication usage” information from transceiver 310 or control system 312 in wireless device 210, but only receives information from “battery 316.”

Third, amended claim 1 calls for “generating a first short-range radio signal, by a first device in a short distance wireless network, in order to transfer information between a Wide Area Network (“WAN”) and the first device.” *Walsh et al.* does not teach this limitation. *Walsh et al.*, does not teach Bluetooth enabled devices 111 that “transfer information between a Wide Area Network (“WAN”).” Bluetooth enabled devices 111 request a music selection from a local server 105 that plays music on speakers 109. The Examiner states that *Walsh et al.* teaches “a Wide Area Network (“WAN”), (0088, pg. 7-pg. 8)...” Office Action, page 2. Yet, paragraph 0088 refers to a “traditional computer (PC) user” in an automated DCDS system shown in Fig. 19 and not Bluetooth enabled devices 111 taught by the system shown in Fig. 1. The Examiner is improperly picking elements from two separate systems illustrated in Figs. 1 and 19. The Examiner has not provided a reasoning for picking the elements of Fig. 1 that teaches Bluetooth enabled devices 111 with the elements of Fig. 19 that teaches a separate system that does not use Bluetooth enable devices 111.

Claim 2 depends from independent claim 1 and is patentable for at least the same reasons stated above.

B. Claim 7

Claim 7 depends from independent claim 1 and is patentable for at least the same reasons stated above.

Further, claim 7 calls for “the transferring the usage information is generated periodically by the fourth device” which is not taught or suggested by *Walsh et al.* or *Liebenow*.

C. Claim 9

Claim 9 depends from independent claim 1 and is patentable for at least the same reasons stated above.

Claim 9 calls for “the fourth device is a cellular telephone and the second device is a server processing device.”

D. Claim 12

The Examiner, similar to claim 1, has rejected claim 12 by combining the teachings of *Walsh et al.* and *Liebenow*:

[I]t would have been obvious to one of ordinary skill in the art at the time of the invention to include an indication of the health of the first device in order to notify a remote device of a low battery condition in a wireless communication system. Office Action, page 4.

As stated above in regard to claim 1, *Walsh et al.* does not teach the claimed “Wide Area Network (“WAN”)”.

Also, amended claim 12 calls for “transferring the information to a second device in a WAN by using cellular signals.” *Liebenow*, in contrast, does not teach “by using cellular signals.” *Liebenow* teaches at Paragraph 0018, page 3, “Control system 320 couples to remote device 216 via network 214 with transmission line 324.” (Emphases added.) Cellular signals are not used.

E. Claims 13-24

Claims 13-24 depend from independent claim 12 and are patentable for at least the same reasons stated above.

Further, amended claims 14 and 15 call for “providing, by an entity, a user of the short distance wireless network with a” “replacement device” or “replacement battery.” The present Application teaches examples of “an entity” as being “...manufacturers, distributors or retailers...”. Application, page 26, lines 14-21. *Liebenow* does not teach or suggest this limitation.

The Examiner has rejected claims 17-24 citing paragraphs 0071-0074, page 6 of *Walsh et al.*; yet, this passage clearly does not teach many of the claim elements found in claims 17-24. Paragraphs 0071-0074 teach “[a] charging mechanism through which a user may pay for a guaranteed [music] request...”.

There is no teaching of “a first charge based on a manufacturer of the first device” as required by claim 18.

There is no teaching of “a first charge based on the first device transferring a first type of data on the WAN and a second charge based on the first device transferring a second type of data on the WAN” as required by claim 19.

There is no teaching of “a first charge based on a first type of device accessing the WAN and a second charge based on a second type of device accessing the WAN” as required by claim 20.

There is no teaching of a “pricing plan” or “promotional plan” as required by claims 22-23.

F. Claim 25

Claim 25 call for “transferring the first device information from the second device to a third device in a WAN by using cellular signals...”.

As stated above, *Walsh et al.* does not teach the claimed “Wide Area Network (“WAN”)...”.

Further, there is no teaching of “using cellular signals...”.

Also, the Examiner cited paragraph 0024, page 4 and paragraph 0019, page 3 of *Liebenow* for teaching “obtaining user information from a database...”. These passages clearly do not teach a “database” and “obtaining user information from a database...”. Paragraph 0024, page 4 describes how a method may be implemented by “a set of instructions”. Likewise, paragraph 0019, page 3 describes storing “message 322.”

G. Claims 26-27, 29-37, 39-41, 43 and 46-47

Claims 26-27, 29-37, 39-41, 43 and 46-47 depend from independent claim 25 and are patentable for at least the same reasons stated above.

Claim 30 calls for “mailing the battery to a user” which is not taught by the cited art. There is no teaching of “mailing the battery to a user” at paragraph 0020, page 3 of *Liebenow*.

Claim 33 calls for “a pricing plan” which is not taught by the cited art.

Claim 34 calls for “charges are a function of a device type” which is not taught by the cited art.

Claim 35 calls for “charges are a function of the period of time of the telecommunication usage.”

In contrast, *Walsh et al.* teaches a charge based on a particular song, regardless of how long the song is played.

Claim 36 calls for “charges are a function of the type of data transferred during the telecommunication usage.” Once again, *Walsh et al.* teaches a charge based on a particular song and not “a function of the type of data.”

H. Claim 48

Amended claim 48 calls for “providing, by an entity, ...the battery for the device responsive to the information.”

For at least the reasons stated above in regard to claims 14 and 15, claim 48 is likewise patentable.

I. Claim 49

In rejecting claim 49 under a 35 U.S.C. §103 rejection, the Examiner has only provided a paragraph and page number citing. The Examiner has not identified which elements of claim 49 are taught by *Walsh et al.* and how *Liebenow* teaches those missing elements as required by law. Further, the Examiner has not provided reasoning for combining the teachings of *Walsh et al.* and *Liebenow*. The Examiner has not pointed out with any particularity which components in *Walsh et al.* or *Liebenow* teach “the device” and “the cellular device” along with the other limitations.

J. Claims 50-53

The Examiner has also improperly rejected claim 50 as described above in regard to claim 49.

Further, amended claim 50 calls for “a first device capable to generate a short-range radio signal containing device information; a second device capable to generate a second short-range radio signal in order to communicate with the first device...”.

Walsh et al. and *Liebenow* do not teach “ a second device capable to generate a second short-range signal in order to communicate with the first device...”. *Walsh et al.* does not teach or suggest that Bluetooth enabled devices 111 have such a capability.

Claims 51-53 depend from independent claim 50 and are patentable for at least the same reasons stated above.

K. Claim 54

The Examiner has also improperly rejected claim 54 as described above in regard to claim 49.

Further, amended claim 54 calls for “a short-range radio software component capable to receive a first short-range radio signal, containing a usage information of a first device on a cellular network responsive to a message request and capable to receive a second short-range radio signal, including information for the first device, from a second device and provide the information for the first device to the first device...”.

This limitation is not taught or suggested by *Walsh et al.* or *Liebenow*.

Therefore, it is respectfully requested the Examiner withdraw the rejection of claims 1-2, 7, 9, 12-27, 29-37, 39-41, 43 and 46-54 under 35 U.S.C. §103(a).

II. Rejection of Claims 3-4 and 45 Under 35 U.S.C. §103(a)

Claims 3-4 and 45 are rejected under 35 U.S.C. §103(a) as being unpatentable over *Walsh et al.* in view of *Barnett* (U.S. Patent No. 6,343,276).

A. Claim 3 and 45

Claims 3 and 45 depend from independent claims 1 and 25 and are patentable for at least the same reasons stated above.

B. Claim 4

Claim 4 calls for “generating a second short-range radio signal, by a third device in the short distance wireless network, in order to communicate with the first device.”

Walsh et al. does not teach or suggest that Bluetooth enabled devices 111 have such a capability.

Therefore, it is respectfully requested the Examiner withdraw the rejection of claims 3-4 and 45 under 35 U.S.C. §103(a).

III. Rejection of Claims 5-6, 8, 10 and 42 Under 35 U.S.C. §103(a)

Claims 5-6, 8, 10, 38 and 42 are rejected under 35 U.S.C. §103(a) as being unpatentable over *Walsh et al.* in view of *Stanforth* (U.S. Publication No. US-2002-0058502A1).

A. Claim 5

Claim 5 depends from claims 4 and 1 and therefore is at least patentable for the reasons stated above.

Further, amended claim 5 calls for “transferring the information from the fourth device, in the short distance wireless network, by generating cellular signals to the WAN” which is not taught by the cited art.

B. Claims 6, 8 and 42

Claims 6, 8 and 42 ultimately depend from independent claims 1 and 25 and are patentable for at least the same reasons stated above.

C. Claim 10

In rejecting claim 10, the Examiner cited paragraph 0047, page 5 of *Stanforth*. However, *Stanforth* teaches a new cellular system. Paragraph 0002, page 1. While *Stanforth* may teach the use of an IP packet in a cellular network, claim 10 calls for "generating a first short-range radio signal including the information in an Internet Protocol ("IP") packet."

Therefore, it is respectfully requested the Examiner withdraw the rejection of claims 5-6, 8, 10 and 42 under 35 U.S.C. §103(a).

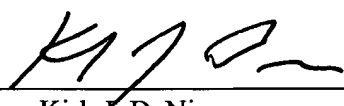
IV. Conclusion

Based on the above amendments and these remarks, reconsideration of 1-10, 12-27, 22-27, 29-37, and 39-54 is respectfully requested.

The Commissioner is authorized to charge any underpayment or credit any overpayment to Deposit Account No. 501826 for any matter in connection with this response, including any fee for extension of time, which may be required.

Respectfully submitted,

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By: 
Kirk J. DeNiro
Reg. No. 35,854

VIERRA MAGEN MARCUS HARMON & DENIRO LLP
685 Market Street, Suite 540
San Francisco, California 94105-4206
Telephone: (415) 369-9660
Facsimile: (415) 369-9665